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16 UNITED STATES DISTRICT COURT
17 CENTRAL DISTRICT OF CALIFORNIA

18
19 UNITED STATES OF AMERICA, et
al.,

20 Plaintiffs,

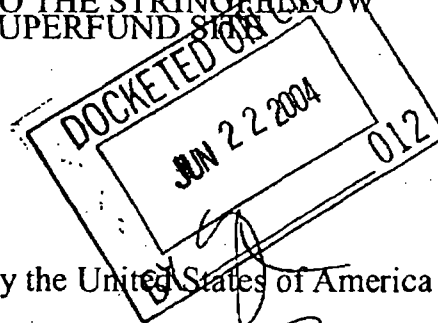
21 v.

22 J.B. STRINGFELLOW, JR., et al.,

23 Defendants.

24 AND RELATED CROSS ACTIONS.
25

CASE NO. CIV 83-2501 R
~~PROPOSED~~ CONSENT DECREE
BETWEEN THE UNITED STATES OF
AMERICA AND THE SETTLING
DEFENDANTS RESOLVING ALL
CLAIMS BETWEEN THEM RELATED
TO THE STRINGFELLOW
SUPERFUND SITE



26 This Consent Decree is entered into by the United States of America (the
27 "United States") on behalf of the United States Environmental Protection Agency
28

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1 ("EPA") pursuant to Section 122 of the Comprehensive Environmental Response,
2 Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C.
3 § 9622(h)(1), and pursuant to the authority of the Attorney General of the United
4 States to compromise and settle claims of the United States.

5 This Consent Decree is entered into by the United States and the Settling
6 Defendants (as that term is defined herein) to resolve the claims in this suit
7 regarding the Stringfellow Superfund Site, as set forth more specifically herein.
8 Each Party consents to and will not contest the authority of the United States to
9 enter into this Consent Decree.

10 I. RECITALS

11 1. Whereas, this Consent Decree concerns the Stringfellow Acid Pits
12 Superfund Remedial Site (the "Stringfellow Site") located near Glen Avon,
13 California. The Stringfellow Site was a disposal facility for liquid industrial
14 wastes that operated from 1956 to 1972. The wastes received at the Stringfellow
15 Site were "Class 1 wastes," many of which now are listed as "hazardous
16 substances" pursuant to CERCLA. The Stringfellow Site is a "facility" as defined
17 by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9);

18 2. Whereas, in 1983, the United States and the state of California (the "State")
19 filed suit in the United States District Court for the Central District of California
20 (the "Court") under CERCLA and other federal laws, seeking reimbursement of
21 response costs and injunctive relief from the defendants to remedy the release of
22 hazardous substances from the Stringfellow Site. The State also alleged state law
23 theories of liability seeking similar remedies. The suit alleged that the various
24 defendants alternatively had owned or operated, arranged for the disposal of
25 hazardous substances at, or transported hazardous substances to, the Stringfellow

1 Site. Many of these defendants asserted counterclaims against the United States
2 and the State. The counterclaims against the State were based on allegations that
3 the State was a liable party under Section 107(a) of CERCLA, 42 U.S.C.
4 § 9607(a), and that the State is liable under various theories of State law. The
5 defendants in this action asserted cross-claims against many third party
6 defendants, including the Third Party Defendants identified herein;

7 3. Whereas, in 1987, the United States and the State obtained a ruling from
8 the Court that many of the first-party defendants are "liable parties" under Section
9 107(a) of CERCLA, 42 U.S.C. § 9607(a). In 1989, the Court found the State also
10 is a "liable party." On October 23, 1992, the Court entered a consent decree (the
11 "1992 Consent Decree") between the United States, the State, and certain
12 defendants, through which the defendants agreed to reimburse the United States
13 for certain past response costs, certain future response costs, and interest accrued
14 thereon.¹ The 1992 Consent Decree tied the timing of the reimbursement of the
15 majority of the past response costs to the final resolution of the State's liability as
16 alleged in the certain counterclaims against the State;

17 4. Whereas, in 1995, the Court determined that the State, as between other
18 liable parties, is responsible for all response actions and costs related to the
19 Stringfellow Site.

20 5. Whereas, all of the liability determinations are more fully set out in the
21 District Court's Order Directing Entry of Judgment Pursuant to Rule 54(b),
22 entered September 11, 1998, and the Judgment Pursuant to Rule 54(b), entered

23
24 ¹ The defendant signatories of the 1992 Consent Decree are all Settling Defendants
25 herein. The remaining Settling Defendant here, Alcan Aluminum Corporation, entered its
26 own separate agreement with the United States and therefore was not a signatory to the
1992 Consent Decree.

1 September 17, 1998 (the "Rule 54(b) Judgment"). The State and Settling
2 Defendants appealed the Rule 54(b) Judgment.

3 6. Whereas, in December 1998, the State, the Settling Defendants and
4 Rainbow Canyon Manufacturing Company entered into an agreement titled the
5 "December 1998 Stringfellow Site Agreement." Therein, the State *inter alia*
6 assumed all responsibility for the Stringfellow Site as of March 1, 1999; agreed to
7 pay certain past and future response costs of the United States; and released the
8 Settling Defendants from any claim that the State had with respect to costs
9 incurred by it prior to January 1, 1999, or at any time thereafter. Separately, the
10 State entered into mutual release agreements with the Third Party Defendants and
11 other third party defendants.

12 7. Whereas, in June 2000, the Court entered an agreement between the United
13 States and the Settling Defendants, the *Stipulation and Order Resolving Issues*
14 *Arising Under the 1992 Consent Decree with Respect to the United States' Claims*
15 *For Certain Response Costs*. This agreement framed two significant cost
16 reimbursement issues arising from the 1992 Consent Decree. First, the agreement
17 acknowledged that, as of April 30, 1996, the Settling Defendants had a carry
18 forward credit in the amount of \$1,440,640.32 to be applied towards their
19 obligation to reimburse the United States for certain past response costs under the
20 1992 Consent Decree (the "1992 Consent Decree Credit"). Second, the agreement
21 acknowledged a dispute regarding reimbursement to the United States for certain
22 costs incurred in "oversight" of the Settling Defendants' response activities at the
23 Stringfellow Site. Pending a judicial determination of the Settling Defendants'
24 obligation to reimburse the United States for oversight costs, the Settling
25 Defendants placed into separate interest bearing escrows \$778,988.35 and

1 \$1,339,659.35 (the "Contested Oversight Escrows"). Taking into account
2 authorized disbursements and interest accrued, as of October 28, 2003, the
3 combined value of the Contested Oversight Escrows is \$1,642,158.27;

4 8. Whereas, the United States contends that the 1992 Consent Decree Credit
5 was applied to and subsequently exhausted by response costs that the United
6 States incurred between May 1, 1996, and December 31, 2000, and the Settling
7 Defendants have requested an accounting thereof;

8 9. Whereas, on July 20, 2001, the Court entered a consent decree between the
9 United States and the State (the "2001 State/United States Consent Decree").
10 Therein, the State agreed to satisfy, and subsequently did satisfy the United States'
11 claims for response costs through December 31, 2000, in satisfaction of any
12 liability of the Settling Defendants through the 1992 Consent Decree. The State
13 further agreed to perform all future response actions that have been or will be
14 selected for the Stringfellow Site, and to pay all response costs incurred by the
15 United States after December 31, 2000;

16 10. Whereas, on August 19, 2002, the Court entered a final consent decree
17 between the Settling Defendants and the State (the "2002 State/Settling
18 Defendants Consent Decree"), which embodied the terms and commitments of the
19 December 1998 Stringfellow Site Agreement (as amended by a subsequent
20 Memorandum of Understanding). As a result, all claims asserted between the
21 State and the Settling Defendants have been dismissed by the Court with
22 prejudice, although the consent decree provides that the Court retains jurisdiction
23 for the purpose of enforcing the consent decree. Moreover, all appeals related to
24 this litigation have been dismissed with prejudice;

25 11. Whereas, subject to the terms and conditions stated in this Consent Decree,
26

1 the United States and the Settling Defendants hereby enter this Consent Decree (a)
2 providing for the disbursement of funds held in the Contested Oversight Escrows;
3 (b) resolving the Settling Defendants' 1992 Consent Decree Credit; (c) providing
4 for certain covenants not to sue; (d) granting contribution protection to the Settling
5 Defendants; and (e) effecting the dismissal with prejudice, except as reserved
6 herein, of all pending claims between the United States and the Settling
7 Defendants arising out of the Stringfellow Site.

8 II. JURISDICTION

9 12. The Court has jurisdiction over the subject matter of this suit under 28
10 U.S.C. §§ 1331 and 1345; 42 U.S.C. §§ 6973, 9604, 9606(a), 9607(a), and
11 9613(b); and 33 U.S.C. §§ 1321, 1364, and 6973. The Court has personal
12 jurisdiction over the Settling Defendants, which, solely for the purposes of this
13 Consent Decree and the underlying civil action, waive all objections and defenses
14 that they may have to jurisdiction of the Court or to venue in this District.

15 III. PARTIES BOUND

16 13. This Consent Decree shall be binding on the United States and the Settling
17 Defendants. Any change in ownership or corporate or other legal status of any of
18 the Settling Defendants, including but not limited to any transfer of assets or real
19 or personal property, shall in no way alter such rights or responsibilities under this
20 Consent Decree.

21 IV. DEFINITIONS

22 14. Unless otherwise expressly provided herein, terms used in this Consent
23 Decree that are defined in CERCLA or in regulations promulgated under
24 CERCLA shall have the meaning assigned to them in CERCLA or in such
25 regulations. Whenever the capitalized terms listed below are used in this Consent
26

1 Decree, the following definitions shall apply:

- 2 a. "CERCLA" shall mean the Comprehensive Environmental Response,
3 Compensation, and Liability Act of 1980, as amended, 42 U.S.C.
4 §§ 9601 et seq.
- 5 b. "Consent Decree" shall mean this Consent Decree, unless otherwise
6 specified.
- 7 c. "Contested Oversight Escrows" shall mean La Salle Bank Account
8 No. 96-629312505 (formerly Security Trust Company Account No.
9 62-01-8814-31-9), and La Salle Bank Account No. 96-629312604
10 (formerly Security Trust Company Account No. 62-00-8814-31-9).
- 11 d. "Day" shall mean a calendar day. In computing any period of time
12 under this Consent Decree, where the last day would fall on a
13 Saturday, Sunday, or federal holiday, the period shall run until the
14 close of business of the next working day.
- 15 e. "EPA" shall mean the United States Environmental Protection
16 Agency and any successor departments, agencies, or instrumentalities
17 of the United States.
- 18 f. "Paragraph" shall mean a portion of this Consent Decree identified by
19 an arabic numeral or a lower case letter.
- 20 g. "Parties" shall mean the signatory parties to this Consent Decree,
21 collectively.
- 22 h. "Party" shall mean a signatory party to this Consent Decree.
- 23 i. "Past Response Costs" shall mean any costs through and including
24 the date of lodging this Consent Decree that the United States has
25 incurred or may incur in relation to its response actions at the

Stringfellow Site, which are recoverable pursuant to Section 107 of CERCLA, 42 U.S.C. § 9607, and include, but are not limited to: direct and indirect costs incurred in reviewing or developing work plans, reports or other documents; verifying the performance of investigative, planning or remedial work; payroll, contractor, travel and laboratory costs; costs otherwise incurred implementing, overseeing or enforcing any person's remedial obligations; and accrued Superfund Interest on any such amounts (at the applicable rate specified for interest on investments of the Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually on October 1 of each year, in accordance with 42 U.S.C. § 9607(a)).

- j. "Pyrite Canyon Group, Inc." shall mean the incorporated, joint-defense entity formed by the Settling Defendants.
- k. "Section" shall mean a portion of this Consent Decree identified by a Roman numeral and including one or more paragraphs, unless the reference indicates otherwise.
- l. "Settling Defendants" shall mean Defendants Alcan Aluminum Corporation; Quemetco, Inc.; The Boeing Company (successor to Boeing North American, Inc., which was sued as Rockwell International Corporation); General Electric Company; McDonnell Douglas Corporation; Millennium Petrochemicals, Inc. (successor of Quantum Chemical Company, sued as National Distillers and Chemical Corporation); Northrop Grumman Corporation (formerly Northrop Corporation); NI Industries, Inc. (an indirect subsidiary of TriMas Corporation); Alumax Inc.; The Deutsch Company; BF

Goodrich Aerostructures (sued as Rohr, Inc.); J.B. Stringfellow, Jr.; Stringfellow Quarry Company; Stringfellow Quarry Company, Inc.; Montrose Chemical Corporation of California; Rheem Manufacturing Company; Weyerhaeuser Company; and Bayer CropScience, Inc. (successor by merger to Stauffer Chemical Company). The term shall include the Settling Defendants' respective predecessors.

m. "Stringfellow Site" shall mean the Stringfellow Superfund Site, located near Glen Avon, in Riverside County, California, as more specifically described in the 1992 Consent Decree and in the Record of Decision attached thereto.

n. "Third-Party Defendants" shall mean Fansteel, Inc.; Quaker Chemical Corporation; Spectrolab, Inc.; and the "Group of 21" third-party defendants identified in the "Notice And Motion Of The Group Of 21 Third Party Defendants For Determination Of Good Faith Settlement" on file in this suit.

o. "United States" shall mean the United States of America, including its departments, agencies, and instrumentalities.

V. 1992 CONSENT DECREE SUPERCEDED

15. By this Consent Decree, the United States and the Settling Defendants agree that the obligations required by Sections VI, VII, VIII, X, XI, XIV, XV, and XXIX of the 1992 Consent Decree are satisfied. Pursuant to Section XXX of the 1992 Consent Decree, the United States and the Settling Defendants agree that this Consent Decree succeeds to and supercedes all remaining obligations under the 1992 Consent Decree, including site access and record preservation.

1 **VI. DISBURSEMENT OF FUNDS IN THE CONTESTED OVERSIGHT**
2 **ESCROWS**

3 16. Concurrently with the execution of this Consent Decree, the Parties have
4 executed escrow instructions, attached hereto as Attachment A, which direct that
5 the total sum of the funds held in the Contested Oversight Escrows be disbursed to
6 the United States Hazardous Substance Superfund in accordance with the escrow
7 instructions (and in accordance with the Parties' prior agreements creating and
8 governing the Contested Oversight Escrows). The Parties agree that, at any time
9 after the Effective Date of this Consent Decree, the United States may deliver the
10 escrow instructions to the agent designated for the Contested Oversight Escrows to
11 obtain such disbursement; provided, however, that the United States' failure to
12 deliver such instructions shall have no effect on the terms of this Consent Decree.
13 The United States shall lodge notice with the Court after the disbursement
14 provided for in this Paragraph is complete.

15 **VII. RESOLUTION OF THE 1992 CONSENT DECREE CREDIT**

16 17. The Settling Defendants hereby agree that response costs for which the
17 United States was entitled to reimbursement from the Settling Defendants pursuant
18 to the 1992 Consent Decree equaled or exceeded the total amounts paid by the
19 Settling Defendants pursuant to the 1992 Consent Decree, thereby extinguishing
20 the 1992 Consent Decree Credit. The Settling Defendants waive any and all rights
21 to any further itemized accounting of the United States expenditures relating to the
22 1992 Consent Decree Credit. The Settling Defendants also waive any an all
23 claims, of any kind, relating to the 1992 Consent Decree Credit.

24 **VIII. UNITED STATES' COVENANTS NOT TO SUE**

25 18. Except as specifically provided in Paragraph 19 below, the United States
26 covenants not to sue or take administrative action against the Settling Defendants

1 under Section 106 or 107(a) of CERCLA, 42 U.S.C. § 9606 and 9607(a), with
2 regard to Past Response Costs incurred in connection with the Stringfellow Site.

3 19. The United States reserves, and this Consent Decree is without prejudice to,
4 all rights against the Settling Defendants with respect to all matters not expressly
5 included within the covenant set forth in Paragraph 18. Notwithstanding any other
6 provision of this Consent Decree, the United States reserves all rights against the
7 Settling Defendants with respect to:

- 8 a. liability for failure of the Settling Defendants to meet a requirement
9 of this Consent Decree;
- 10 b. criminal liability;
- 11 c. liability for damages or injury to, destruction of, or loss of natural
12 resources, and for costs of any natural resource damage assessments;
13 and
- 14 d. liability, based upon the ownership or operation of the Stringfellow
15 Site after the Effective Date of this Consent Decree, or upon the
16 transportation, treatment, storage, or disposal, or the arrangement for
17 the transportation, treatment, storage, or disposal, of a hazardous
18 substance or a solid waste at the Stringfellow Site after the Effective
19 Date of this Consent Decree.

20 20. The United States reserves, and this Consent Decree is without prejudice to,
21 the right of the United States to compel in this civil suit, in a new civil suit, or by
22 administrative process, any of the Settling Defendants to perform response actions
23 relating to the Stringfellow Site (other than those provided for under the 1992
24 Consent Decree), or to reimburse the United States for response costs incurred
25 after the lodging of this Consent Decree; provided that such rights shall arise only
26

1 if, and shall exist only to the extent that, (1) the United States has sought a judicial
2 decree or issued an administrative order requiring the State to perform such
3 response actions or to reimburse the United States for such additional response
4 costs; (2) the State fails or refuses to implement or comply with such judicial
5 decree or administrative order; and (3) a district court of competent jurisdiction, in
6 response to a request by the United States, fails or refuses to compel the State to
7 perform such response actions or to reimburse the United States for such
8 additional response costs.

9 21. The United States recognizes that the Settling Defendants have an interest in
10 any action against the State regarding the Stringfellow Site, including to enforce
11 the Settling Defendants' rights against the State under the December 1998
12 Stringfellow Site Agreement and 2002 State/Settling Defendants Consent Decree.
13 The United States agrees that it shall give notice of any such action to the
14 representatives of the Settling Defendants, as designated in Paragraph 45 of this
15 Consent Decree. Notice to the representatives designated pursuant to Paragraph
16 45 of this Consent Decree shall be deemed sufficient. Failure to give notice shall
17 not limit the rights of the United States in any action against the State, nor shall it
18 affect the liability of any Settling Defendant.

19 22. Except as provided in Paragraph 28, nothing in this Consent Decree is
20 intended to be nor shall it be construed as a release, covenant not to sue, or
21 compromise of any claim or cause of action, administrative or judicial, civil or
22 criminal, past or future, in law or in equity, which the United States may have
23 against any person, firm, corporation or other entity not a Party to this Consent
24 Decree.

1 **IX. THE SETTLING DEFENDANTS' COVENANTS NOT TO SUE**

2 23. Except as specifically provided in Paragraph 24 and 25, and except in the
3 case of the United States taking action against the Settling Defendants pursuant to
4 Paragraph 20 of this Consent Decree, the Settling Defendants covenant not to sue
5 or take administrative action against the United States, or its contractors or
6 employees, with regard to the Stringfellow Site. Such covenant expressly
7 includes, without limitation:

- 8 a. any direct or indirect claim for reimbursement from the EPA
9 Hazardous Substance Superfund established by 26 U.S.C. § 9507,
10 based on Sections 106(b)(2), 107, 111, 12, or 113 of CERCLA, 42
11 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, or 9613, or any other
12 provision of law;
13 b. any claim arising out of response activities at the Stringfellow Site,
14 including any claim under the United States Constitution, the
15 California Constitution, the Tucker Act, 28 U.S.C. § 1491, the Equal
16 Access to Justice Act, 28 U.S.C. § 2412, as amended, or at common
17 law; and
18 c. any claim against the United States pursuant to Sections 107 and 113
19 of CERCLA, 42 U.S.C. §§ 9607 and 9613, relating to the
20 Stringfellow Site.

21 24. The Settling Defendants hereby covenant not to sue or to assert any civil or
22 administrative claim or cause of action against any other party under Sections 107
23 or 113(f) of CERCLA, 42 U.S.C. §§ 9607 and 9613(f), to the same extent as the
24 Settling Defendants are protected against claims in Section X ("Contribution
25 Protection"); provided, however, that this covenant shall not prevent the Settling
26

1 Defendants from asserting any rights that they may have (1) against the State; or
2 (2) against any entity in the event that the United States institutes proceedings
3 under Paragraphs 19 or 20 of this Consent Decree.

4 25. Notwithstanding any other provision of this Consent Decree, the Settling
5 Defendants reserve the right to assert contribution claims against the United States
6 Navy and the United States Air Force (1) for any claims that might be brought
7 against the Settling Defendants pursuant to Paragraph 19(c) or 20 of this Consent
8 Decree; and (2) for such claims as are preserved in the May 2001 "Settlement
9 Agreement Between Counterclaim Defendant United States, The Stringfellow
10 Entities, and Third-Party Plaintiffs/Counterclaimants."

11 26. Nothing in this Consent Decree shall be deemed to constitute approval or
12 preauthorization of a claim within the meaning of Section 111 of CERCLA, 42
13 U.S.C. § 9611, or 40 C.F.R. § 300.700(d).

14 **X. CONTRIBUTION PROTECTION**

15 27. The Parties agree, and by entering this Consent Decree the Court finds, that
16 the Settling Defendants are entitled, as of the Effective Date of this Consent
17 Decree, to protection from contribution actions or claims as provided by Section
18 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), for "matters addressed" in this
19 Consent Decree. "Matters addressed" for the purpose of this Section shall mean
20 the Past Response Costs, and any issues addressed in Paragraphs 18 and 20 of this
21 Consent Decree.

22 **XI. EFFECT OF SETTLEMENT/DISMISSAL OF CLAIMS**

23 28. Nothing in this Consent Decree shall be construed to create any rights in, or
24 grant any cause of action to, any person not a Party to this Consent Decree;
25 provided, however, that if, as of the Effective Date of this Consent Decree, a Third
26

1 Party Defendant has executed a release of all claims that the Third Party
2 Defendant has against the United States with regard to the Stringfellow Site, in a
3 form of release acceptable to the United States (e.g. Attachment B, attached
4 hereto) then the covenant set forth in Paragraph 18 of this Consent Decree and the
5 contribution protection provided in Paragraph 27 of this Consent Decree shall
6 extend to such Third Party Defendant (subject to the exceptions in Paragraphs 19
7 and 20 of this Consent Decree as applicable to such Third Party Defendant).

8 29. This Consent Decree represents a good faith settlement by the Parties. No
9 Party to this Consent Decree is admitting to any liability with respect to matters
10 discussed in this Consent Decree or the subject matter of this Consent Decree.
11 Neither the terms of this Consent Decree, nor a Party's performance or failure to
12 perform any obligation in this Consent Decree, shall be used by any party (whether
13 or not such person or entity is a Party to this Consent Decree) for any purpose
14 whatsoever or be admitted in evidence in any court or administrative tribunal for
15 any purpose whatsoever. Notwithstanding the foregoing, this Consent Decree may
16 be used by any Party hereto for the following limited purposes: (a) to the extent
17 necessary to enforce the specific terms of this Consent Decree; or (b) as the basis
18 for a demand or demands to any Parties' respective insurance carriers.

19 30. On the Effective Date of this Consent Decree, all claims among the United
20 States and the Settling Defendants that are covered by the respective covenants in
21 this Consent Decree will be resolved. The United States and the Settling
22 Defendants agree that all claims asserted in the suit as between the United States
23 (on the one hand) and the Settling Defendants (on the other hand) shall be
24 dismissed with prejudice as of the Effective Date of this Consent Decree, subject
25 to Paragraph 20. The Court will retain continuing jurisdiction over the action to
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1 adjudicate any matters arising out of this Consent Decree and to allow the lodging
2 of the final consent decree between the United States and the State anticipated by
3 the court-approved 2001 State/United States Consent Decree.

4 31. On the Court's entry of this Consent Decree, with the single exception of the
5 United States' claims against Paul and Lucille Hubbs, all pending claims in this
6 action have been resolved. Upon the resolution of the United States' claims
7 against Paul and Lucille Hubbs, this action shall be placed on the administratively
8 closed docket pending submission of a final consent decree between the State and
9 the United States.

10 XII. STIPULATED PENALTIES

11 32. If any Settling Defendant fails to fulfill any obligations of this Consent
12 Decree, such individual Settling Defendant shall be in violation of this Consent
13 Decree. EPA may give the individual Settling Defendant written notification of
14 the violation and describe the noncompliance. Stipulated penalties shall accrue in
15 the amount of one thousand dollars (\$1000.00) for each Day of the violation,
16 calculated from the first date of the violation and until the violation is corrected.
17 EPA may send the Settling Defendant a written demand for the payment of the
18 penalties. Nothing herein shall prevent the simultaneous accrual of multiple
19 penalties for separate violations of this Consent Decree, including violations by
20 separate Settling Defendants.

21 33. All stipulated penalties are due and payable within thirty (30) Days of the
22 date of a written demand for payment of the penalties by EPA. The check, or a
23 letter accompanying the check, shall reference the Stringfellow Site, Site #094U,
24 identify the payment as "stipulated penalties," and be made by certified or
25 cashier's check made payable to "EPA Hazardous Substance Superfund." The
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1 payment shall be directed as follows:

2 Hazardous Substance Superfund
3 U.S. Environmental Protection Agency, Region 9
4 Attn: David Wood, Superfund Accounting
P.O. Box 360863M
Pittsburgh, PA 15251

5 At the time of any payment, the Settling Defendant shall send notice that such
6 payment has been made to EPA and DOJ in accordance with Section XVII
7 (Notices and Submissions).

8 34. Penalties shall accrue as provided in this Section regardless of whether EPA
9 has notified the Settling Defendant of the violation or made a demand for payment,
10 but need only be paid on demand. Notwithstanding any other provision of this
11 Section, the United States may, in its unreviewable discretion, waive any portion
12 of stipulated penalties that have accrued pursuant to this Consent Decree.

13 XIII. SITE ACCESS

14 35. Commencing on the Effective Date of this Consent Decree, any Settling
15 Defendant with an ownership interest or other control over the Stringfellow Site,
16 by this Consent Decree, agrees to provide EPA and its representatives and
17 contractors access at all reasonable times to the Stringfellow Site for the
18 implementation of any response activity related to the Stringfellow Site, including
19 but not limited to:

- 20 a. Monitoring, investigation, removal, remedial or other activities
- 21 at the Stringfellow Site;
- 22 b. Verifying any data or information submitted to EPA;
- 23 c. Conducting investigations relating to contamination at or near
- 24 the Stringfellow Site;
- 25 d. Obtaining samples;

- 1 e. Assessing the need for, planning, or implementing response
2 actions at or near the Stringfellow Site; and
3 f. Inspecting and copying records, operating logs, contracts, or
4 other documents maintained or generated by the Settling
5 Defendants or their agents, consistent with Section XIV
6 (Access to Information).

7 36. Notwithstanding any provision of this Consent Decree, EPA retains all of its
8 access authorities and rights, including enforcement authorities related thereto,
9 under CERCLA and any other applicable statutes or regulations.

10 **XIV. ACCESS TO INFORMATION**

11 37. For the purposes of Paragraphs 38 through 43 alone, the term "Settling
12 Defendants" shall mean the Settling Defendants and the Pyrite Canyon Group, Inc.

13 38. For the period set forth in Paragraph 42 of this Consent Decree, the Settling
14 Defendants shall provide to the EPA, on request, copies of all documents and
15 information within their possession or control or that of their contractors or agents
16 relating to activities at the Stringfellow Site, including, but not limited to,
17 sampling, analysis, chain of custody records, manifests, trucking logs, receipts,
18 reports, sample traffic routing, correspondence, or other documents or information
19 related to response actions at the Stringfellow Site.

20 39. The Settling Defendants may assert business confidentiality claims covering
21 part or all of the documents or information submitted to the EPA under this
22 Consent Decree to the extent permitted and in accordance with Section 104(e)(7)
23 of CERCLA, 42 U.S.C. § 9604(e)(7), and 40 C.F.R. § 2.203(b). Documents or
24 information determined to be confidential by the EPA will be accorded the
25 protection specified in 40 C.F.R. Part 2, Subpart B. If no claim of confidentiality
26

1 accompanies documents or information when they are submitted to the EPA, or if
2 the EPA has notified the Settling Defendants that the documents or information are
3 not confidential under the standards of Section 104(e)(7) of CERCLA, the public
4 may be given access to such documents or information without further notice to
5 the Settling Defendants.

6 40. The Settling Defendants may assert that certain documents or information
7 are privileged under the attorney-client privilege or any other privilege recognized
8 by federal law. If the Settling Defendants assert such a privilege in lieu of
9 providing documents or information, they shall provide the EPA with the
10 following: (1) the title of the document or information; (2) the date of the
11 document or information; (3) the name and title of the author of the document or
12 information; (4) the name and title of each addressee and recipient; (5) a
13 description of the subject of the document or information; and (6) the privilege
14 asserted. However, no documents or information created or generated pursuant to
15 the requirements of this or any other judicial or administrative settlement with the
16 United States shall be withheld on the grounds that they are privileged. If a claim
17 of privilege applies only to a portion of a document or information, the document
18 or information shall be provided to the EPA in redacted form to mask the
19 privileged portion only. The Settling Defendants shall retain all documents and
20 information that they claim to be privileged until the EPA has had a reasonable
21 opportunity to dispute the privilege claim and any such dispute has been resolved
22 in the Settling Defendants' favor.

23 41. No claim of confidentiality shall be made with respect to any data, including
24 but not limited to, all sampling, analytical, monitoring, hydrogeologic, scientific,
25 chemical, or engineering data, or any other documents or information evidencing
26

1 conditions at or around the Stringfellow Site.

2 **XV. RETENTION OF RECORDS**

3 42. Until five (5) years after the Effective Date of this Consent Decree, the
4 Settling Defendants shall preserve and retain all documents or information (not
5 including duplicates without any distinguishing or differentiating features) now in
6 their possession or control, or which come into their possession or control, that
7 relate in any manner to response actions taken at the Stringfellow Site or to the
8 liability of any person for response actions or response costs at or in connection
9 with the Stringfellow Site, regardless of any corporate retention policy to the
10 contrary.

11 43. After the conclusion of the document retention period in the preceding
12 Paragraph, the Settling Defendants shall notify the EPA at least ninety (90) Days
13 prior to the destruction of any such documents or information, and, on request by
14 the EPA, the Settling Defendants shall deliver any such documents or information
15 to the EPA. The Settling Defendants may assert that certain documents or
16 information are privileged under the attorney-client privilege or any other
17 privilege recognized by federal law. If the Settling Defendants assert such a
18 privilege, they shall provide the EPA with the following: (1) the title of the
19 document or information; (2) the date of the document or information; (3) the
20 name and title of the author of the document or information; (4) the name and title
21 of each addressee and recipient; (5) a description of the subject of the document or
22 information; and (6) the privilege asserted. However, no documents or
23 information created or generated pursuant to the requirements of this or any other
24 judicial or administrative settlement with the United States shall be withheld on
25 the grounds that they are privileged. If a claim of privilege applies only to a
26

1 portion of a document or information, the document or information shall be
2 provided to the EPA in redacted form to mask the privileged portion only. The
3 Settling Defendants shall retain all documents and information that they claim to
4 be privileged until the EPA has had a reasonable opportunity to dispute the
5 privilege claim and any such dispute has been resolved in the Settling Defendants'
6 favor.

7 **XVI. CERTIFICATION**

8 44. By signing this Consent Decree, each Settling Defendant certifies
9 individually that, to the best of its knowledge and belief, it has:

10 a. complied with all discovery requests in this litigation and fully
11 complied with any and all requests for information pursuant to Section 104(e) of
12 CERCLA, 42 U.S.C. § 9604(e); and,

13 b. not altered, mutilated, discarded, destroyed or otherwise disposed of
14 any original records, documents or other information relating to the Settling
15 Defendants' potential liability regarding the Stringfellow Site since the filing of
16 the present suit; provided, however, that some documents may have been
17 destroyed in the course of routine document management, and others may be lost
18 or mis-filed in various document retention systems.

19 **XVII. NOTICES AND SUBMISSIONS**

20 45. Written notice as specified herein shall constitute complete satisfaction of
21 any written notice requirement of this Consent Decree. Whenever, under the terms
22 of this Consent Decree, notice is required to be given or a document is required to
23 be sent to any individual Settling Defendant, it shall be directed to the individual
24 signing this Consent Decree on behalf of the Party, at the address accompanying
25 his/her signature, unless the individual or his/her successor(s) gives notice of a
26

1 change to the United States in writing. For the purpose of notice pursuant to
2 Paragraph 21 of this Consent Decree, the designated representatives of the Settling
3 Defendants shall be:

4 Allan J. Topol
5 Covington & Burling
6 1201 Pennsylvania Avenue, N.W.
7 Washington, D.C. 20044

7 David L. Mulliken
8 Latham & Watkins LLP
9 Suite 1800
10 600 West Broadway
11 San Diego, CA 92101-3375

10 Thomas F. Koegel
11 Folger, Levin & Kalm LLC
12 Embarcadero Center West
13 275 Battery Street, 23rd Floor
14 San Francisco, CA 94111

13 The Settling Defendants may designate different representatives at any time
14 after providing written notice, including name and address, to the United States.

15 All notices required under the terms of this Consent Decree to be sent to the
16 United States shall be sent to the following representatives, unless the United
17 States otherwise provides notice of a change to the Settling Parties in writing:

18 Charnjit Bhullar (SFD-7)
19 United States Environmental Protection Agency, Region 9
20 75 Hawthorne Street
21 San Francisco, California 94105

21 Phillip A. Brooks
22 United States Department of Justice
23 P.O. Box 7611
24 Ben Franklin Station
25 Washington, D.C. 20044

23 XVIII. INTEGRATION

24 46. This Consent Decree constitutes the final, complete, and exclusive
25 agreement and understanding among the Parties with respect to the settlement
26

1 embodied in this Consent Decree. The Parties acknowledge that there are no
2 representations, agreements, or understandings relating to the settlement other than
3 those expressly contained in this Consent Decree.

4 **XIX. PUBLIC COMMENT**

5 47. This Consent Decree shall be subject to a public comment period of not less
6 than thirty (30) Days pursuant to Section 122(i) of CERCLA, 42 U.S.C. § 9622(i).
7 In accordance with Section 122(i)(3) of CERCLA, the United States may modify
8 or withdraw its consent to this Consent Decree if comments received disclose facts
9 or considerations which indicate that this Consent Decree is inappropriate,
10 improper, or inadequate. The Settling Defendants consent to the entry of this
11 Consent Decree without further notice.

12 **XX. EFFECTIVE DATE**

13 48. The Effective Date of this Consent Decree shall be the date on which this
14 Consent Decree is entered by the Court.

15 49. If for any reason the Court should decline to approve this Consent Decree in
16 the form presented, it shall be voidable at the discretion of the United States or the
17 Settling Defendants, and thereafter its terms may not be used as evidence in any
18 litigation or other proceedings between or among the Parties. For purposes of this
19 Paragraph, the right of the Settling Defendants to void this Consent Decree shall
20 be exercised only on the decision of a simple majority of the Settling Defendants,
21 but shall nonetheless be binding on all Settling Defendants.

22 **XXI. RETENTION OF JURISDICTION**

23 50. The Court shall retain jurisdiction as to all claims resolved herein for the
24 sole purpose of enforcing this Consent Decree.

XXII. SIGNATORIES/SERVICE

51. Each individual executing this Consent Decree on behalf of a Party identified below certifies that he/she is fully authorized to enter into the terms and conditions of this Consent Decree and to execute and bind legally such Party to this Consent Decree.

52. The Attorney General or his designee has approved the settlement embodied in this Agreement in accordance with Section 122(h)(1) of CERCLA, 42 U.S.C. § 9622(h)(1).

53. This Consent Decree may be executed in any number of counterparts, each of which shall together constitute one and the same document. Each signature and counterpart may be compiled into a single document to submit to the court for approval and entry.

SO ORDERED THIS 21st DAY OF June, 2004.

United States District Judge

[Signature blocks for DOJ, EPA and Settling Defendants on following pages]

1 IT IS SO AGREED that the undersigned parties enter into this Consent Decree in
2 the matter of United States v. J. B. Stringfellow, relating to the Stringfellow Acid
Pits:

3 FOR THE UNITED STATES OF AMERICA
4 DEPARTMENT OF JUSTICE

5 By: Tom Sansonetti

Date: 2.4.04

6 Thomas L. Sansonetti
7 Assistant Attorney General
8 Environment and Natural Resources Division
9 United States Department of Justice
Washington, D.C. 20530
(202) 514-2701

10
11 By: Phillip Brooks

Date: 2/11/04

12 Phillip Brooks
13 Counsel to the Chief
14 Environmental Enforcement Section
15 United States Department of Justice
16 Washington, D.C. 20530
17 (202) 514-3637
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27 CONSENT DECREE BETWEEN THE UNITED STATES
OF AMERICA AND SETTLING DEFENDANTS
28 Case Number: CIV 83-2501 R

1 FOR THE UNITED STATES OF AMERICA
2 ENVIRONMENTAL PROTECTION AGENCY

SCANNED

3
4 By: Keith Takata

Date: FEB 06 2004

5 Keith Takata
6 Director, Superfund Division
7 Region IX
8 United States Environmental Protection Agency
9 75 Hawthorne Street
10 San Francisco, California 94105
11 (415) 972-3252

12 By: J. Andrew Helmlinger

Date: FEB 06 2004

13 J. Andrew Helmlinger
14 Assistant Regional Counsel
15 Region IX
16 United States Environmental Protection Agency
17 75 Hawthorne Street
18 San Francisco, California 94105
19 (415) 972-3904
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27 CONSENT DECREE BETWEEN THE UNITED STATES
28 OF AMERICA AND SETTLING DEFENDANTS
Case Number: CIV 83-2501 R

1 FOR ALCAN ALUMINUM CORPORATION
2

3
4 By: 

Date: 1-15-2004

5 Lawrence A. Salibra II, Esq.
6 Alcan Aluminum Corp.
7 6060 Parkland Blvd.
8 Mayfield, OH 44124-4185
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27 CONSENT DECREE BETWEEN THE UNITED STATES
28 OF AMERICA AND SETTLING DEFENDANTS
Case Number: CIV 83-2501 R

1 FOR QUEMETCO, INC.
2

3
4 By: 

Date: 12/18/03

5 Daniel M. Crowley, Esq.
6 Booth, Mitchell & Strange LLP
7 3435 Wilshire Blvd., 30th Floor
8 Los Angeles, CA 90010-2050
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27 CONSENT DECREE BETWEEN THE UNITED STATES
28 OF AMERICA AND SETTLING DEFENDANTS
Case Number: CIV 83-2501 R

1 FOR THE BOEING COMPANY (successor to Boeing North American, Inc.,
2 which was sued as Rockwell International Corporation); GENERAL ELECTRIC
3 COMPANY; McDONNELL DOUGLAS CORPORATION; MILLENNIUM
4 PETROCHEMICALS, INC. (successor of Quantum Chemical Company; sued as
National Distillers and Chemical Corporation); NORTHROP GRUMMAN
CORPORATION (formerly Northrop Corporation); and NI INDUSTRIES, INC.
(an indirect subsidiary of TriMas Corporation)

5
6
7 By: 

Date: 12/18/03

8 Allan J. Topol, Esq.
9 S. William Livingston, Jr., Esq.
Covington & Burling
10 1201 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2401
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27 CONSENT DECREE BETWEEN THE UNITED STATES
OF AMERICA AND SETTLING DEFENDANTS
28 Case Number: CIV 83-2501 R

1 FOR ALUMAX INC.
2
3

4 By: Rene P. Tatro
5

Date: 12/29/03

6 Rene P. Tatro, Esq.
7 Tatro Tekosky Sadwick Mendelson LLP
8 444 South Flower Street, ~~41~~ Floor
9 Los Angeles, CA 90071
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27 CONSENT DECREE BETWEEN THE UNITED STATES
28 OF AMERICA AND SETTLING DEFENDANTS
Case Number CIV 83-2501 R

1 FOR THE DEUTSCH COMPANY
2
3

4 By: T. Koegel
5

Date: December 22, 2009

6 Michael A. Kahn, Esq.
7 Thomas Koegel, Esq.
8 Folger Levin & Kahn LLP
9 Embarcadero Center West
10 275 Battery Street, 23rd Floor
11 San Francisco, CA 94111
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27 CONSENT DECREE BETWEEN THE UNITED STATES
28 OF AMERICA AND SETTLING DEFENDANTS
Case Number: CIV 83-2501 R

1 FOR BF GOODRICH AEROSTRUCTURES (sued as Rohr, Inc.)
2

3
4 By: 

Date: 12/19/03

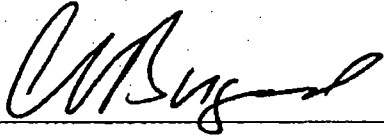
5 Nancy Saunders, Esq.
6 Bingham McCutchen LLP
7 Three Embarcadero Center, Suite 1800
8 San Francisco, CA 94111
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27 CONSENT DECREE BETWEEN THE UNITED STATES
28 OF AMERICA AND SETTLING DEFENDANTS
Case Number: CIV 83-2501 R

SCANNED

1 FOR J.B. STRINGFELLOW, JR.; STRINGFELLOW QUARRY CO.;
2 STRINGFELLOW QUARRY CO., INC.

3
4
5 By:



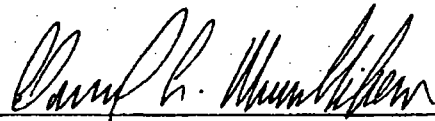
Date: 12-17-03

6 Christopher P. Bisgaard, Esq.
7 James Fraser, Esq.
8 John Shimada, Esq.
9 Lewis, D'Amato, Brisbois & Bisgaard
10 221 North Figueroa Street, Suite 2100
11 Los Angeles, CA 90012
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27 CONSENT DECREE BETWEEN THE UNITED STATES
28 OF AMERICA AND SETTLING DEFENDANTS
Case Number: CIV 83-2501 R

1 FOR MONTROSE CHEMICAL CORPORATION OF CALIFORNIA

2
3
4 By:



Date: December 16, 2003

5 David L. Mulliken, Esq.
6 James A. Tabb, Esq.
7 Latham & Watkins
8 701 "B" Street, Suite 2100
9 San Diego, CA 92101-8197
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27 CONSENT DECREE BETWEEN THE UNITED STATES
28 OF AMERICA AND SETTLING DEFENDANTS
Case Number: CIV 83-2501 R

1 FOR RHEEM MANUFACTURING COMPANY
2
3

4 By: David T. Peterson
5

Date: 12-17-03

6 David T. Peterson, Esq.
7 Morgan, Lewis & Bockius
8 300 South Grand Avenue, 22nd Floor
9 Los Angeles, CA 90071-3132
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27 CONSENT DECREE BETWEEN THE UNITED STATES
28 OF AMERICA AND SETTLING DEFENDANTS
Case Number: CIV 83-2501 R

1 FOR WEYERHAEUSER COMPANY
2
3

4 By: Vincent Fish
5

Date: 12-18-03

6 Vincent Fish, Esq.
7 Law Office of Vincent Fish
8 301 East Colorado Blvd., Suite 200
9 Pasadena, CA 91101
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27 CONSENT DECREE BETWEEN THE UNITED STATES
28 OF AMERICA AND SETTLING DEFENDANTS
Case Number: CIV 83-2501 R

1 FOR BAYER CROPSCIENCE, INC. (successor by merger to Stauffer Chemical
2 Company)

3
4
5 By:

John W. Wilmer Jr.

Date: 12/19/03

6 John W. Wilmer, Jr., Esq.
7 Vorys, Sater, Seymour & Pease LLP
8 1828 "L" Street, N.W., Suite 1111
9 Washington, D.C. 20036-5104
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27 CONSENT DECREE BETWEEN THE UNITED STATES
28 OF AMERICA AND SETTLING DEFENDANTS
Case Number: CIV 83-2501 R

SCANNED

**INSTRUCTIONS REGARDING FINAL
DISBURSEMENT OF ESCROWED FUNDS**

These instructions ("Instructions") by and among the United States of America (the "United States") and the Settling Defendants¹ (collectively, the "Parties"), direct the final disbursement to the United States of funds held in LaSalle Bank Account No. 96-629312505 (formerly Security Trust Company Account No. 62-01-8814-31-9) and LaSalle Bank Account No. 96-629312604 (formerly Security Trust Company Account No. 62-00-8814-31-9), pursuant to that certain Escrow Agreement Regarding Contested State Oversight, dated as of August 29, 1997 and amended as of December 9, 1997 (Exhibit 1 hereto), and that certain Escrow Agreement Regarding Contested EPA Oversight, dated as of August 29, 1997 (Exhibit 2 hereto) (collectively, the "Contested Oversight Escrows").

RECITALS

WHEREAS, these Instructions are attached as Attachment A to a certain final consent decree in U.S., et al. v. J.B. Stringfellow et al. (Case No. CV83-2501 JMI) (the "Final Consent Decree"), executed by the Parties concurrently herewith, which *inter alia* provides that all funds held in the Contested Oversight Escrow shall be made available for disbursement to the United States on or after the Effective Date of the Final Consent Decree;

¹ The "Settling Defendants" are Alcan Aluminum Corporation; Quemetco, Inc.; The Boeing Company (successor to Boeing North American, Inc., which was sued as Rockwell International Corporation); General Electric Company; McDonnell Douglas Corporation; Millennium Petrochemicals, Inc. (successor of Quantum Chemical Company, sued as National Distillers and Chemical Corporation); Northrop Grumman Corporation (formerly Northrop Corporation); NI Industries, Inc. (an indirect subsidiary of TriMas Corporation); Alumax Inc.; The Deutsch Company; BF Goodrich Aerostructures (sued as Rohr, Inc.); J.B. Stringfellow, Jr.; Stringfellow Quarry Company; Stringfellow Quarry Company, Inc.; Montrose Chemical Corporation of California; Rheem Manufacturing Company; Weyerhaeuser Company; and Bayer CropScience, Inc. (successor by merger to Stauffer Chemical Company).

WHEREAS, the Parties desire that the current escrow agent, LaSalle Bank (the "Escrow Agent"), disburse to the United States all funds held in the Contested Oversight Escrows upon receipt of these Instructions on or after the Effective Date of the Final Consent Decree;

SCANNED

AGREEMENT

NOW, THEREFORE, in consideration of the above and in consideration of the mutual provisions, covenants and obligations contained herein, and for other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. Within three business days of its receipt of a fully executed copy of these Instructions (which shall be attached as Attachment A to a fully executed copy of the Final Consent Decree), Escrow Agent shall issue to the United States a certified check, for the full amount of all funds held in the Contested Oversight Escrows, made payable as follows:

Hazardous Substance Superfund
U.S. Environmental Protection Agency, Region 9
Attn: David Wood, Superfund Accounting
P.O. Box 360863M
Pittsburgh, PA 15251

The payment shall reference the Stringfellow Site (Site #094U), as well as CERCLA Number CAT 080012826 and U.S.A.O. file number 82-22-418.

2. Escrow Agent shall, within five (5) days of the payment by certified check referenced in Paragraph 1 above, send notice of the payment as provided in Paragraph 6 of the Contested Oversight Escrows.

3. To the extent these Instructions conflict with any terms or conditions of the Contested Oversight Escrows, these Instructions shall control.

/ / /

/ / /

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Attachment A

2 of 3

4. These Instructions may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Signatures may be delivered by facsimile, with original signatures to follow by mail.

SCANNED

FOR THE UNITED STATES OF AMERICA

By: 

Phillip A. Brooks
Senior Counsel

FOR SETTLING DEFENDANTS

By: 

David L. Mulliken
of LATHAM & WATKINS LLP authorized to
sign on behalf of Settling Defendants

Third Party Release Of The United States

This Release is made this 19th day of December, 2003, by the undersigned Third Party Defendant.

WHEREAS, in 1983 the state of California (the "State") and the United States of America (the "United States") brought an action (the "Action"), Case Number CV 83-2501, in the United States District Court for the Central District of California (the "Court"), to recover response costs they incurred and may incur in remediating the Stringfellow Acid Pits Superfund Remedial Site located near Glen Avon, California (the "Stringfellow Site"), and to obtain declaratory and other relief; and

WHEREAS, in the Action, the State and the United States alleged that the various defendants alternatively had owned or operated, arranged for the disposal of hazardous substances at, or transported hazardous substances to, the Stringfellow Site; and

WHEREAS, the defendants brought third party claims in the Action against numerous other persons or entities (the "Third Party Defendants"), including the undersigned, who allegedly also arranged for disposal of hazardous substances at, or transported hazardous substances to, the Stringfellow Site; and

WHEREAS, the defendants and certain of the Third Party Defendants, including the undersigned, have reached various settlements of their disputes among them; and

WHEREAS, the defendants have reached a settlement with the State concerning their various respective claims in connection with the Stringfellow Site, further evidenced by a certain consent decree among them that has been approved by the Court, and, in addition, certain of the Third Party Defendants, including the undersigned, also have reached settlements of their respective claims with the State; and

WHEREAS, the United States and the State have entered into a settlement, further evidenced by a certain consent decree among them that has been approved by the Court, wherein the State agreed to satisfy, and subsequently did satisfy, the United States' claims for response costs through December 31, 2000, and further agreed to perform all future response actions that have

been or will be selected for the Stringfellow Site, and to pay all response costs incurred by the United States after December 31, 2000; and

WHEREAS, all appeals related to the Action have been dismissed; and

WHEREAS, the United States and the defendants recently finalized a consent decree (the "Consent Decree," to which this Release form is attached as Attachment B) providing certain mutual releases and covenants not to sue, and granting contribution protection by the United States; and

WHEREAS, the Consent Decree provides that if, as of the Effective Date of the Consent Decree, a Third Party Defendant (defined therein to include only Third Party Defendants "Fansteel, Inc., Quaker Chemical Corporation, Spectrolab, Inc., and the so-called 'Group of 21' third party defendants identified in the 'Notice and Motion of the Group of 21 Third Party Defendants for Determination of Good Faith Settlement' on file in this suit") has executed a release of all claims that it has against the United States with regard to the Stringfellow Site in a form acceptable to the United States (e.g., this Release form which, as noted above, is Attachment B to the Consent Decree), then the provisions of the Consent Decree providing releases, covenants not to sue and contribution protection shall extend also to such Third Party Defendant, subject to the reservations stated in the Consent Decree, upon the Effective Date of the Consent Decree; and

WHEREAS, the undersigned Third Party Defendant seeks to have the provisions of the Consent Decree providing releases, covenants not to sue, and contribution protection extend to it and, to accomplish that end, desires herein to release all claims that it has against the United States with regard to the Stringfellow Site in a form reviewed by and deemed acceptable to the United States.

NOW, THEREFORE, the undersigned Third Party Defendant agrees as follows:

- (1) Binding. This Release shall be binding upon the undersigned Third Party Defendant and its successors and assigns.
- (2) Definitions. The following definitions shall apply in this Release:

- (a) The "Effective Date" of this Release shall be the Effective Date of the Consent Decree, as defined therein.
 - (b) "CERCLA" shall mean the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601 *et seq.*
 - (c) "EPA" shall mean the United States Environmental Protection Agency and any successor departments, agencies, or instrumentalities of the United States.
 - (d) "United States" shall mean the United States of America, including its departments, agencies, and instrumentalities.
- (3) Third Party Defendant's Release and Covenant Not to Sue. Except as specifically provided in Paragraphs (4) and (5) of this Release, and except in the case of the United States taking action against the undersigned Third Party Defendant pursuant to Paragraph 20 of the Consent Decree, as of the Effective Date of this Release, the undersigned Third Party Defendant releases and covenants not to sue or take administrative action against the United States, or its contractors or employees, with regard to the Stringfellow Site. Such release and covenant expressly includes, without limitation:
- (a) any direct or indirect claim for reimbursement from the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, based on Sections 106(b)(2), 107, 111, 12, or 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, or 9613, or any other provision of law;
 - (b) any claim arising out of response activities at the Stringfellow Site, including any claim under the United States Constitution; the California Constitution; the Tucker Act, 28 U.S.C. § 1491; the Equal Access To Justice Act, 28 U.S.C. § 2412, as amended; or at common law; and

- (c) any claim against the United States pursuant to Sections 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613, relating to the Stringfellow Site.

(4) Release Of Claims For Contribution: The undersigned Third Party Defendant hereby covenants not to sue or to assert any civil or administrative claim or cause of action against any other party under Sections 107 or 113(f) of CERCLA, 42 U.S.C. §§ 9607 and 9613(f), to the same extent as the undersigned Third Party Defendant is protected against claims in Section X ("Contribution Protection") of the Consent Decree; provided, however, that this covenant shall not prevent the undersigned Third Party Defendant from asserting any rights that it may have (1) against the State; or (2) against any entity in the event that the United States institutes proceedings under Paragraph 19 or 20 of the Consent Decree.

(5) Reservation of Rights by Third Party Defendant. Notwithstanding any other provision of this Release, the undersigned Third Party Defendant reserves the right to assert contribution claims against the United States Navy and the United States Air Force (1) for any claims that might be brought against the undersigned Third Party Defendant pursuant to Paragraph 19(c) or 20 of the Consent Decree; and (2) for such claims as are preserved in the May 2001 "Settlement Agreement Between Counterclaim Defendant United States, The Stringfellow Entities, and Third-Party Plaintiffs/Counterclaimants" and any separate releases entered pursuant to that agreement.

(6) Other Provisions.

- (a) Nothing in this Release shall be deemed to constitute approval or preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. § 300.700(d).
- (b) Other than as provided in paragraph (4) above, nothing in this Release shall be construed to create any rights in, or grant any cause of action to, any

person or entity other than the undersigned and the United States.


- (c) By executing this Release, the undersigned Third Party Defendant is not admitting to any liability with respect to matters discussed in this Release or the subject matter of this Release. Neither the terms of this Release, nor the undersigned Third Party Defendant's failure to perform any obligation in this Release, shall be used by any party for any purpose whatsoever or be admitted in evidence in any court or administrative tribunal for any purpose whatsoever. Notwithstanding the foregoing, this Release may be used by the United States to the extent necessary to enforce the specific terms of this Release.
- (7) Records. The undersigned Third Party Defendant agrees to comply with Sections XIII through XV of the Consent Decree regarding site access, access to information, and record retention, and be subject to Section XII ("Stipulated Penalties") of the Consent Decree, as though it were a Settling Defendant under the Consent Decree.
- (8) Certification. By signing this Release, the undersigned Third Party Defendant certifies individually that, to the best of its knowledge and belief, it has:
- (a) complied with all discovery requests in this litigation, as well as any and all requests for information pursuant to Section 104(e) of CERCLA, 42 U.S.C. § 9604(e); and
 - (b) not altered, mutilated, discarded, destroyed or otherwise disposed of any original records, documents or other information relating to the Settling Defendants' potential liability regarding the Stringfellow Site since the filing of the present suit; provided, however, that some documents may have been destroyed in the course of routine document management, and others may be lost or mis-filed in various document retention systems.

The individual executing this Release on behalf of the Third Party Defendant identified below certifies that he/she is fully authorized to enter into the terms and conditions of this Release and to execute and bind legally such Third Party Defendant to this Release.

SCANNED

Dated: December 19, 2003

For: SPECTROLAB, INC.

By 
Name: Gary L. Rafferty
Title: Counsel

2:83-CV-02501

OK
PMFG

Phillip Brooks
US Department of Justice
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It is hereby certified that this document was served by first class mail postage prepaid or by fax or e-mail delivery to counsel (or parties) at their respective address or fax number or e-mail address of record.

